United Nations S/2008/300

Security Council

Distr.: General
7 May 2008

Original: English

Letter dated 6 May 2008 from the Secretary-General to the President of the Security Council

Pursuant to Security Council resolution 1031 (1995), I have the honour to convey the attached letter, dated 30 April 2008, which I received from the High Representative for Bosnia and Herzegovina (see annex), transmitting the thirty-third report on the implementation of the Peace Agreement, covering the period from 1 October 2007 to 31 March 2008.

I should be grateful if you would bring this letter to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

08-32571 (E) 090508

Annex

Letter dated 30 April 2008 from the High Representative for Bosnia and Herzegovina and European Union Special Representative to the Secretary-General

Pursuant to Security Council resolution 1031 (1995), in which the Council requested the Secretary-General to submit to it reports from the High Representative in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you the thirty-third report (see enclosure). I would ask for this report to be distributed to the members of the Security Council for their consideration.

This is my second report to the Secretary-General since assuming the office of the High Representative for Bosnia and Herzegovina (and European Union Special Representative) on 2 July 2007. The present report covers the period from 1 October 2007 to 31 March 2008.

Should you or any Council member require any information beyond what is offered in the attached report or have any questions regarding its contents, I should be pleased to provide further information.

(*Signed*) Miroslav **Lajčák**
High Representative and European Union Special Representative
in Bosnia and Herzegovina

Enclosure

Thirty-third report of the High Representative for Bosnia and Herzegovina

1 October 2007-31 March 2008

Summary

This report covers the period from October 2007 to March 2008. During these six months Bosnia and Herzegovina made important progress on the reforms required for it to integrate into Euro-Atlantic institutions. Although a political agreement among the ruling parties on police reforms proved sufficient to permit the European Union to initial a Stabilization and Association Agreement with Bosnia and Herzegovina in December — and so to defuse a looming crisis of government at State level — the same parties proved unable to translate their agreement into the legislation required for the country actually to sign a Stabilization and Association Agreement until 16 April, when they finally adopted the two police reform laws. These delays disappointed the vast majority of the citizens of Bosnia and Herzegovina, who wish to see real movement towards European Union accession. It also illustrated the extent to which the country's politics remain divisive, confrontational and self-defeating. Elsewhere, an agreement late in March among the State and entity governments on moveable defence property resulted in Bosnia and Herzegovina securing "intensified dialogue" towards a membership action plan at the NATO summit in Bucharest early in April.

The conjunction of continuing domestic political stalemate with mounting regional uncertainty in the run-up to and immediate aftermath of Kosovo's declaration of independence made it impossible for the Steering Board of the Peace Implementation Council to confirm the closure of my office in June 2008. The Peace Implementation Council thus decided late in February that the Office of the High Representative should continue until such time as the domestic authorities deliver on five long-standing objectives and two conditions are met. The preconditions are that Bosnia and Herzegovina should have signed a Stabilization and Association Agreement and that the political and security situation in the country and neighbourhood should be stable.

The Steering Board's declaration of 27 February is attached as an annex to this report. It makes the point once more that I must continue to exercise my mandate and powers as High Representative in order to ensure full respect for the Dayton Peace Agreement. I will also continue to do my utmost to help to overcome the challenges still facing Bosnia and Herzegovina and to facilitate steps that can contribute to the country's peace, progress and stability.

I. Introduction

1. This is my second report to the Secretary-General since assuming the office of High Representative for Bosnia and Herzegovina and European Union Special Representative on 2 July 2007. It is the first to deal solely with my own time in office. As has been the norm, the report assesses progress made towards attaining the goals outlined in previous reports, reviews developments during the reporting period, and provides my assessment of mandate implementation in the more important areas. However, the decision of the Steering Board of the Peace Implementation Council in February to set five objectives and two conditions that must be achieved or met before the Office of the High Representative can transition into an Office of a European Union Special Representative implies a focused approach. While the workplan of my predecessor will continue to inform the work of my office, our priority will now be to attain the objectives and to ensure the conditions identified by the Peace Implementation Council are met. As a consequence, I have not included the section of this report normally devoted to assessing progress on the workplan.

II. Political update

General political environment

2. October and November 2007 saw a period of political turbulence, when politicians from Republika Srpska sought to defy and overturn decisions I had made on 19 October that aimed to streamline decision-making procedures in the State-level Council of Ministers and Parliamentary Assembly. The situation was resolved only after intense negotiations between myself and party leaders, which led to agreed amendments to voting procedures in the Parliament and Council of Ministers of Bosnia and Herzegovina.

3. Despite the negative political atmosphere, the leaders of the six governing parties were nonetheless able to strike agreements on police reforms to be conducted in two stages. Those agreements opened the way for the initialling of the Stabilization and Association Agreement with the European Union on 4 December.

4. In the meantime, however, the resignation on 1 November of the Chairman of the Council of Ministers, which turned his government into a caretaker administration until it was reconfirmed by parliament late in February, meant that there was little progress on other elements of the reform agenda. In fact, stagnation prevailed through March 2008.

5. On 26 January 2008 the leadership of the Republika Srpska ruling party, the Alliance of Independent Social Democrats (SNSD), adopted conclusions that called for the transformation of Bosnia and Herzegovina into an asymmetric federation (or confederation) and claimed the right, supposedly based on the Charter of the United Nations, to self-determination up to and including secession for the entity. This was clearly a warning shot fired in anticipation of Kosovo's unilateral declaration of independence on 17 February. The Republika Srpska National Assembly duly confirmed this link when it passed a resolution on 21 February condemning the illegality of Kosovo's unilateral declaration of independence, demanding that Bosnia and Herzegovina not recognize it, and excoriating those countries that had

done so. It went on to state that the Republika Srpska "... would consider that it too possessed the right to establish its future legal status by means of a referendum".

6. I immediately reacted to this in a public statement, noting that I was deeply concerned by the adoption of this resolution by the Republika Srpska National Assembly, and stressing that Bosnia and Herzegovina is an internationally recognized State whose sovereignty and territorial integrity is guaranteed by the Dayton Peace Agreement. Entities of Bosnia and Herzegovina have no right to secede. In its declaration of 27 February, the Steering Board of the Peace Implementation Council made clear its position when it expressed deep concern with regard to official calls for secession. It strongly emphasized that under the Dayton Peace Agreement "one entity has no right to secede from Bosnia and Herzegovina".

7. In a separate development, the largest Bosniak party, the Party of Democratic Action (SDA), repudiated its previous acceptance of the inter-party agreements envisaging a two-stage reform of the country's police. The SDA representative on the working group established by the Council of Ministers to draft the requisite legislation sought throughout to change its terms of reference. When this failed, the party president, Sulejman Tihic, announced early in February that SDA would not support the legislation emerging from the working group. It became clear in subsequent discussions with SDA that Mr. Tihic had reneged on his commitments under the Mostar Declaration because he feared that agreement implied an implicit recognition of the Republika Srpska, something he and his party seem unwilling to do ahead of any negotiations on constitutional reform. The police-reform laws were thus destined to have a difficult passage through parliament; and so it proved, with a number of failures before the breakthrough on 16 April.

8. With the police reform laws adopted and the Stabilization and Association Agreement due to be signed in fairly short order, a key factor will be the degree to which the Stabilization and Association Agreement will improve the political atmosphere and restart reforms. But inter-party and inter-communal tensions remain fraught, especially as 2008 is an election year. The run-up to the municipal elections in October will spotlight the extent to which the effects of wartime "ethnic cleansing" endure. The likelihood that ever fewer voters will choose to cast their ballots in the towns and villages in which they lived before the war also means that fewer members of "minority" communities will win seats on municipal councils. Given its moral and symbolic significance for Bosniaks, Srebrenica will be a particular flashpoint. Demands are already being heard that the town should have a special electoral regime that would guarantee seats and a share in power for Bosniak councillors.

9. The Office of the High Representative continued to work towards its earliest possible closure. The Steering Board discussed the future policy of the international community towards Bosnia and Herzegovina and the deteriorating political situation in the country at its meeting held on 26 and 27 February. It was a major achievement that all members were able to agree on a transition strategy. This preserved the unity of the international community around a transition strategy based on five objectives and two conditions that have to be achieved by the Bosnia and Herzegovina authorities before there can be a transition from the Office of the High Representative to a European Union Special Representative.

The five objectives are:

- Resolution of State property
- Resolution of defence property
- Completion of the Brcko Final Award
- Fiscal sustainability of the State
- Entrenchment of the rule of law

In addition, the two conditions are that:

- The Stabilization and Association Agreement must be signed
- There must be a positive assessment of the situation in Bosnia and Herzegovina by the Peace Implementation Council

Constitutional reform

10. Many of the country's political parties have been busy developing their constitutional reform platforms and proposals. The initialling of the Stabilization and Association Agreement with the European Union on 4 December, based on the assumption that both police reform legislation and a full Stabilization and Association Agreement would quickly follow, stimulated Croat and Serb party leaders, in particular, also to assume that the political focus would now shift to tackling the issue of constitutional reform. Not only did neither happen during the reporting period, but the constitutional models that were published or sketched out were at such wide variance with one another that the entire issue became a renewed battleground among the ruling coalition. The party leaders therefore decided at a meeting in Siroki Brijeg on 2 February to concentrate on police reform and to postpone any discussions on the process or scope of constitutional reform until after the signing of the Stabilization and Association Agreement.

11. Despite continuing efforts to coordinate and articulate a single position on the basis of the principles outlined in their Kresevo Declaration of September 2007, the Croat-dominated parties have not achieved a unified stance on constitutional reform. The two incarnations of the Croat Democratic Union (HDZ BiH and HDZ 1990) have been most proactive in developing and presenting their proposals. The HDZ 1990 came forward on 10 November, advocating a federal model for Bosnia and Herzegovina that would have "at least three units" with legislative, executive and judicial powers. Each would be multinational in population, but each would also provide one constituent people with a majority. The platform of 11 December of HDZ BiH endorsed the same model, but with four federal units, one being the greater Sarajevo metropolitan area. The smaller Croat parties, including HSS-NHI and HSP, opted instead for more mid-level units, which should not be formed according to exclusively national criteria. What remains unclear within the Croat camp is whether the internal reorganization of Bosnia and Herzegovina should be limited to adjusting the territorial set-up within the Federation or should also include — and change — the current boundaries of the Republika Srpska. The leaders of Republika Srpska have, of course, rejected the second option out of hand.

12. This stumbling block, combined with statements by the leader of HDZ BiH that were seen as accepting the territorial inviolability of the Republika Srpska, produced a change of tack by some of the Croat parties with regard to both

substance and process. Meeting on 14 March at the initiative of HDZ 1990, most leaders present agreed to and signed a statement calling for immediate changes to the entity constitutions and laws in order to ensure the equality of all three constituent peoples in each. HDZ BiH and the People's Party "Radom za Boljitak" did not sign the statement. Although the former assessed the statement as positive, it regretted the timing, which had caused the predominantly Bosniak and Serb parties immediately to reject any plan to start reforms with the entities rather than the State as a whole.

13. The Republika Srpska-based parties have made clear throughout that they are prepared to consider only constitutional changes that do not diminish the territorial integrity and competencies of the Republika Srpska as established at Dayton. Their preference is for an explicitly federal or confederal order in which the Republika Srpska, in its existing confines, would become one of the units. The Party of Democratic Progress argued in its proposal of 19 January that no reforms beyond those envisaged by the so-called April package of 2006 would be acceptable to them; and that any territorial reorganization of Bosnia and Herzegovina should apply only to the Federation. For its part, the Main Board of Alliance of SNSD concluded on 26 January that future federal or, in fact, confederal units should have the explicit right to self-determination, up to and including secession, as well as more State-like powers than the current entities.

14. Bosniak political leaders proved reluctant to discuss constitutional reform models in any detail. The President of SBiH, Haris Silajdzic, argued that this would be pointless until such time as Kosovo's final status was settled. Arguments over the scope of police reform have, in fact, become surrogates for the discussion of constitutional matters as far as they are concerned. Thus the common SDA-SBiH platform on constitutional reform that had been expected in 2007 did not materialize. The two parties do, however, share a preference for a "civic" Bosnia and Herzegovina composed of at least five multinational regions based on functional, economic, geographical, transport, historical and national (or ethnic) criteria.

15. Although constitutional reform remains essential if Bosnia and Herzegovina is to be a functional and sustainable State with real hope of joining the European Union any time soon, reaching any domestic consensus on the matter will prove extremely difficult so long as the domestic parties' conceptions remain both antithetical and non-negotiable. When a readiness to compromise emerges, it will still be necessary for the international community to help facilitate any potentially successful process.

III. European partnership requirements

16. Hopes rose during the reporting period when new political agreements on police reform — the long-running and single most important precondition to signing a Stabilization and Association Agreement with the European Union — were deemed sufficient by Brussels early in December to permit at least the initialling of the agreement. However, it was not until 16 April that the requisite legislation was finally adopted.

Police restructuring

17. The leaders of the six parties comprising the ruling coalition at State level met in Mostar on 28 October 2007 and signed a Declaration on honouring the commitments for implementation of the police reform with the aim of initialling and signing the Stabilization and Association Agreement (Mostar Declaration). A month later they agreed to a two-phase Action Plan for its implementation. On 4 December, following the adoption of these documents by the Council of Ministers, the European Commission initialled a Stabilization and Association Agreement with Bosnia and Herzegovina. Actual signature, however, would depend upon the passage of the requisite legislation.

18. According to the Action Plan, the first phase of the reform requires that the Bosnia and Herzegovina Parliamentary Assembly enact laws establishing seven police-related bodies at State level by June 2008. The second phase, which will regulate subordinate policing levels as part of a single structure in line with the three European Union principles, is to be deferred until after constitutional reforms are in place. The Action Plan envisages that implementation of the second phase — the enactment of the relevant policing legislation — should be carried out within one year of the adoption of constitutional amendments defining the relative powers of the various units of government.

19. In December the Council of Ministers established a working group charged with drafting the laws required by the Mostar Declaration and Action Plan for the first phase of police reform. The working group met six times, from 18 December 2007 to 7 February 2008. The members could not achieve a consensus on a number of issues, principally because of the insistence by the SDA representative that the laws should give the State a degree of authority over the entity, cantonal and Brcko police forces. The majority of working group members contended that the relationship between the State and local levels of policing should be determined in the second phase, after constitutional reform.

20. The working group submitted two draft laws to the Council of Ministers in February 2008, the first providing for the establishment of a Directorate for Police Coordination and various police support agencies, and the second creating independent and oversight bodies. Because of the disagreements within the working group on the texts of the laws, written alternatives for — and tallies of the members' votes on — the disputed provisions were included. On 14 February, the Council of Ministers adopted, by majority vote, versions of the laws that did not contain the provisions backed by SDA and forwarded them to the Parliamentary Assembly.

21. Because of the opposition of SDA, SDP and SDS, the Parliamentary Assembly's Joint Committee on Defence and Security twice failed in March to produce positive reports on the laws. On the second occasion, on 20 March, the Collegium of the House of Representatives tried and failed to bypass the committee stage by putting the laws into urgent procedure because SNSD and SBiH could not agree on single texts embodying amendments demanded by the latter. The laws were not dead, but no harmonization of the texts that met the requirements of the five parties still favouring the laws was possible during the remainder of the month. However, on 11 April a compromise between SNSD and SBiH was reached that allowed the laws to be adopted on 16 April.

IV. Entrenching the rule of law

22. The principal development during the reporting period was the decision in February of the Steering Board's Political Directors to single out "entrenchment of the rule of law" as one of the objectives to be delivered by the Bosnia and Herzegovina authorities before the transition from the Office of the High Representative could be effected. In particular, the Peace Implementation Council cited the need to demonstrate this entrenchment through the adoption of a national war crimes strategy, the adoption of the law on aliens and asylum, and the adoption of a national justice sector reform strategy.

War crimes prosecution strategy

23. The working group led by the country's chief prosecutor held four meetings during the reporting period that aimed to determine the scope and contents of a national strategy on the prosecution of war crimes. A draft is expected by the end of April. The strategy should confirm current practice on case selection and prioritization. It could also put an end to the endless public discussions in Bosnia and Herzegovina of the number of war crime cases that remain to be tried. The agreement on a robust strategy should also serve to address public concerns over the efficacy of domestic judicial processes dealing with war crimes. The chief prosecutor's absence on sick leave has lately delayed the emergence of the draft strategy, but the recent appointment of a replacement to chair the working group indicates that the process is back on track towards producing a document on which concrete discussions and recommendations can be based. Given the decision of the Peace Implementation Council that the adoption of a war crimes strategy is one of the benchmarks for the closure of the Office of the High Representative, my office will be closely involved in helping ensure that Bosnia and Herzegovina has a relevant and effective plan.

Adoption of the law on aliens and asylum

24. The Office of the High Representative has closely monitored the progress of the draft law on the residence and movement of aliens in the Bosnia and Herzegovina Parliamentary Assembly. It adopted the law on 16 April. The Office of the High Representative has also participated in the drafting of amendments to the Law on the Service for Foreigners' Affairs, worked on the establishment of an information system to control legal migration, monitored preparations for the opening of a detention centre for illegal migrants, and worked on the development of rules regulating the deportation of illegal migrants from Bosnia and Herzegovina.

National justice sector reform strategy

25. By January 2008, the national justice sector reform strategy was ready for submission to and adoption by the Council of Ministers. At that point, however, the Republika Srpska Ministry of Justice sent in comments of a largely technical nature, but which served, collectively, to undermine the previously achieved agreement and, in effect, to degrade the strategy's State-wide scope. The Republika Srpska comments pointed to the maintenance of exclusive entity competency over judicial reform, denying the State's interest and depriving it of any harmonizing or coordinating role among the entities and Brcko District. Both the long and relatively successful engagement of the international community in justice sector reform, as

well as the more recent commitment of the Peace Implementation Council to push this issue forward, mean that the Office of the High Representative will need to work with other interested parties, particularly the Bosnia and Herzegovina Ministry of Justice, the Organization for Security and Cooperation in Europe and the United Kingdom Department for International Development, to forge a compromise that will ensure an acceptable and substantive strategy is adopted.

Other rule of law issues

26. As I noted in my previous report, the Office of the High Representative remains involved in supporting other aspects of justice sector reform. My office worked with international partners to draft amendments to the laws on the Border Police and the State Investigation and Protection Agency, as well as new laws on police officials at the State, entity, cantonal and Brcko District levels. The Office of the High Representative assisted the Bosnia and Herzegovina Security Ministry to review its internal organizational rulebook. Two national working groups, established following the brainstorming sessions the Office chaired in 2007, have now produced their recommendations. These propose the establishment of an Appellate Court of Bosnia and Herzegovina, but not the formation of satellite branches of the State Court to try war crimes cases. Rather, they argue for the reinforcement of the human capacity of the State Court's War Crimes Chamber. The project to build a State prison has also progressed. Sufficient funding was secured to allow construction to commence; and the Council of Europe Development Bank has committed itself to providing a loan to cover the shortfall. Finally, the Office of the High Representative continues to monitor other ongoing processes, including the transition by the State Court Registry to full domestic ownership. This is still anticipated to be complete by the end of 2009.

V. Cooperation with the Tribunal

27. I continue to place a high priority on cooperation with the International Tribunal for the Former Yugoslavia. Since my last report, international forces and domestic law enforcement agencies have applied continuous pressure on and scrutiny over persons and networks suspected of supporting fugitives from the Tribunal. My office cooperates with and supports the activities conducted by the Tribunal, NATO, EUFOR, the Republika Srpska police, the Bosnia and Herzegovina Intelligence and Security Agency, and others involved in efforts to bring the four remaining fugitives to justice. This has resulted in greatly improved coordination and unity of effort, as well as more efficient use of our limited resources.

28. For its part, the Bosnia and Herzegovina Prosecutor's Office remains vigilant in its investigation of the financial assets of the support networks; and the Office of the High Representative will continue to back efforts to freeze the assets and to coordinate travel bans on individuals known to be part of those networks.

29. The arrest of the remaining fugitives — and of Mladic and Karadzic above all — would greatly improve the situation in Bosnia and Herzegovina. Not only would their arrests help bring closure for the families of victims, but it would also do much to remove the stigma attached to Republika Srpska and to improve inter-ethnic relations in the country. It would therefore be helpful if the relevant organs of the United Nations could find a way to ensure that Serbia meets its legal obligations

under both international and domestic law to arrest the fugitives and to close this sorry chapter of Balkan history.

30. Although the Office of the High Representative continues to press for progress on the case before the Human Rights Chamber relating to the disappearance of Colonel Avdo Palic in 1995, the Republika Srpska authorities have made no progress in locating his remains or in bringing his murderers to justice, as required by the Chamber's rulings. There has been a lack of cooperation on the part of Serbia, where the putative perpetrators and/or witnesses reside. The Office of the High Representative will continue to press for action on the Palic case, which, despite its longevity, remains under active investigation.

31. Our efforts to secure funding for hiring experienced staff to assist the Bosnia and Herzegovina Prosecutor's Office in the investigation of Srebrenica-related war crimes has resulted in an exceptionally generous response from international donors. Sufficient funds were pledged to permit four investigators and two legal assistants to be hired. Combined with the establishment of a field office in Srebrenica by the Bosnia and Herzegovina Prosecutor, I am confident we will begin to see progress in assuring Srebrenica survivors that their concerns for justice and, in some cases, their own security are being addressed.

32. I will continue to monitor all aspects of Tribunal-related activity in Bosnia and Herzegovina to ensure that our joint efforts contribute to the apprehension of key fugitives.

VI. Reforming the economy

33. Accelerating inflation represented one of the biggest economic developments in Bosnia and Herzegovina during the fourth quarter of 2007. Prices rose by 2.1 per cent in October and by 1.1 per cent in both November and December. This rather sharp monthly price movement produced an annualized inflation rate of 4.9 per cent in December. Inflation was mainly caused by higher food prices and transport costs, the latter reflecting the rising price of imported oil derivatives. There is reason to believe, however, that the existing monetary regime, along with sound economic policy mechanisms, will help to limit inflationary trends. Nonetheless, the current account deficit continues to impede the Bosnia and Herzegovina economy. The trade deficit amounted to KM 2.1 billion in the third quarter of 2007, which was up by 16.2 per cent compared to the same period in 2006. Exports have increased by 12.6 per cent and imports by 15 per cent compared to 2006.

34. The fiscal position of Bosnia and Herzegovina in 2008 is likely to be positive, as the general government budget is expected to post a surplus thanks to strong revenue growth and delays in project implementation, particularly in the Federation and at State level. While both entities adopted their 2008 budgets in December 2007, the State budget was approved only in March 2008 — and after intense political disputes among the coalition parties about how much it could be increased and where any extra spending should go. This wrangling underlined once again the need for better fiscal coordination through the establishment of the National Fiscal Council.

35. On 16 October 2007, the Office of the High Representative organized an economic conference which, apart from reinitiating debate on the economic

problems and needs of Bosnia and Herzegovina, resulted in written commitments from the State and entity Prime Ministers and the Mayor of Brcko District to work on key reforms that have long been identified as central to the country's economic development and promotion as a potentially attractive destination for foreign investments. By signing a so-called platform for action, the Prime Ministers and Mayor pledged to pursue a number of reforms aimed at (1) improving fiscal coordination and stability; (2) creating a better business environment; and (3) promoting other reforms ensuring sustainable development. This document will serve as a basis for the Office of the High Representative — as well as for the international and business communities — to restart negotiations on a series of long-standing economic reform priorities, most of which are also venerable items on the mission implementation plan and workplan of the Office. The platform will also provide the basis for the country development strategy for 2008-2013 for Bosnia and Herzegovina. Of course, it remains to be seen if the action plan will help to deliver the political breakthroughs required to de-block laws on banking supervision, obligations and the National Fiscal Council.

36. Some progress has already been recorded. The Council of Ministers adopted the State-level Law on Pharmaceuticals and Medical Devices on 14 February. This law aims to create a single, regulated pharmaceutical market. It is now in parliamentary procedure. The Federation, for its part, has enacted both a Law on Profit Tax, which is in harmony with its Republika Srpska equivalent and will prevent double taxation, and a new Law on Income Tax, which should apply as from 1 January 2009. Finally, the Council of Ministers has lately endorsed and forwarded to parliament a draft Law on the National Fiscal Council. Once established, this body should ensure proper fiscal coordination and macroeconomic stability. Its formation is also one of the objectives set in February by the Steering Board as necessary before the transition from the Office of the High Representative. There had been no progress by the end of March on the other fiscal sustainability benchmark identified by the Peace Implementation Council: agreement on a permanent methodology for establishing the coefficients by which the Indirect Taxation Authority would distribute revenues.

VII. Public administration reform

37. I reported in the last quarter of 2007 on positive developments regarding public administration reform, including the appointment of a new State-level coordinator and the signature of a memorandum of understanding on the public administration reform fund. Progress since then has been limited and uneven, and dogged by persistent political disagreements. Lack of progress on fundamental issues such as constitutional reform continues to slow down related reforms such as public administration reform, as do ongoing debates between local partners and international donors about the role of political appointees in senior civil service positions and the relationship between the State- and entity-level public administration reform processes.

38. My office is cooperating closely with the European Commission delegation and will continue to advise and assist the relevant authorities whenever possible to ensure that the public administration reform process can continue and that what has been achieved so far will not be undermined.

VIII. Defence reform

39. After lengthy debates, senior State and entity ministers signed an agreement on the final disposal of all rights and obligations over movable defence property that will continue to serve defence purposes in Doboj on 27 March. The Minister of Defence also signed a list enumerating such moveable military property, breaking it down into categories (such as ammunition, weapons and explosives) for disposal. UNDP is to determine the total time that will be required and estimate the costs for disposing of the property that will not be sold or donated.

40. Resolution of the issue of immovable defence property (real estate) seems unlikely before there is a settlement of the overall dispute over the ownership of State property. Both issues figure among the core objectives that need to be achieved before the Office of the High Representative can transition into an Office of a European Union Special Representative.

41. The agreement on moveable defence property was sufficient, however, to win Bosnia and Herzegovina the status of "intensified dialogue" at the NATO summit in Bucharest early in April. Intensified dialogue means that contacts between Bosnia and Herzegovina, NATO and NATO member States will be stepped up to prepare the country for a membership action plan leading to eventual accession.

IX. Intelligence reform

42. The State Intelligence and Security Agency retained its multi-ethnic cohesion despite the political turbulence in Bosnia and Herzegovina and the region during the reporting period. Operational work continued without interruption in the fields of organized crime, counter-terrorism and war crimes. The Agency's cooperation with global and regional partners also continued to grow in scope and depth. The committee responsible for parliamentary oversight of the Agency made significant progress, commencing both announced and unannounced inspections. A parliamentary working group established to review the law on the State Intelligence and Security Agency was due to complete its report shortly.

X. European Union military mission in Bosnia and Herzegovina

43. EUFOR continued to provide a credible military force of some 2,500 personnel and retained the capability to bring in over-the-horizon reserves. EUFOR is headquartered in Sarajevo but has liaison and observation teams throughout the country. It should be noted that the presence of EUFOR on the ground provides the crucial reassurance that many in the country still feel is necessary. Given the current political environment, I welcome the fact that EUFOR retains the capacity to deploy troops throughout Bosnia and Herzegovina at short notice.

XI. Return of refugees and displaced persons

44. The Bosnia and Herzegovina Ministry for Refugees and Human Rights has completed its consultations on a revision of the current strategy for the

implementation of annex VII of the Dayton Peace Agreement, the annex that guarantees to refugees and displaced persons the right to return home.

45. According to the latest figures from the Ministry, there are still 130,000 displaced persons in Bosnia and Herzegovina who aim to return to their pre-war homes. This does not mean that all of these people will indeed be able to return, as there are likely to be several objective reasons that rule this option out for many people, including the absence of employment opportunities, inadequate funds for rebuilding, and difficulties in accessing health and social services in their former places of residence.

46. Although the current draft strategy, to be finalized and adopted later in the year by the Council of Ministers, still focuses on facilitating people's return to their original homes, it will also emphasize the need to sustain those people who have already returned and to pay more attention than in the past to vulnerable groups who have not been able to take advantage of any return assistance projects. Unable to return, such persons are often still living in deplorable circumstances in collective centres. The strategy will make it a priority to offer them dignified and long-term living conditions. UNHCR, my office, and other international and domestic stakeholders have been actively involved in the drafting of the new strategy.

XII. Mostar

47. The Mostar City Council adopted its 2008 budget in December 2007: the first time since unification in 2004 that a budget has been adopted on time. Previous years saw budgets enacted as late as June, with various political disputes blocking the process. The intervention of the Office of the High Representative was required in 2005 and 2006. The timely adoption of the 2008 budget reflects not only the maturity of the political parties in Mostar, but also the success of the unification process in overcoming many long-standing quarrels. The city has also made progress in establishing a unified public utility company, finally qualifying for a World Bank waste-management programme.

48. Despite this progress, all signs point to a divisive electoral campaign in advance of the October municipal elections, which will be only the second local elections since unification. All regular city business, including outstanding items on the unification agenda, will be on hold from June. This is likely to preclude the adoption of the Mostar Statute this year, a key goal in the unification process.

49. As part of the already-incipient electoral campaign, repeated calls by the main Croat parties for the constitutional reorganization of Bosnia and Herzegovina along federal (and explicitly ethnic) lines, which started with the HDZ 1990 party congress in November, have raised concerns among Bosniaks in Mostar that the Croats aim either to repartition the city or to claim it as their own.

50. At the level of the Herzegovina-Neretva Canton, seated in Mostar, no budget for the current year had been enacted by the end of March. Nor, after the passage of 18 months, had a replacement police commissioner been appointed. Bosniak and Croat politicians both aim to secure this key position for one of their own.

XIII. Brcko District

51. Politics in Brcko District remained relatively stable over the reporting period. The District, however, cannot but be affected by the troubled political situation prevailing in the country as a whole. The District Statute, as amended in February 2007, smoothed the functioning of government institutions and has led to improved performance by and greater responsibility on the part of the government. However, coordination between the government and the majority coalition in the District Assembly remains unsatisfactory, and has not been improved by the prospect of elections in October. The economy is healthy and it keeps on attracting private businesses, including investments from outside the District and the country.

52. Efforts continued apace to ensure that the District will be able to "function effectively and apparently permanently" after the end of supervision. In order to provide for high quality, efficient, and safe utility services to Brcko District residences and businesses, the government completed the transfer of electricity, water, and waste water supply services from government departments to a new public utility company. The company commenced work on 1 January 2008. The Supervisor's office closely monitored and guided the transformation process. The public utility company has operated efficiently and transparently during its first three months.

53. A new Customs terminal was opened in Brcko Port on 7 March. The terminal conforms to European Union standards and represents an investment of approximately KM 3 million. It provides modern facilities within the port area that are of great significance for Customs operations for businesses within both the District and the entire region.

54. On 7 December 2007, the Brcko District Assembly adopted, for the first time in four years, a budget for the next year within the timeline stipulated by the Statute. The 2008 budget is once again balanced and financed from revenues collected within the District and allocations from the Indirect Taxation Authority. Another first, however, is that it includes a three-year capital development line.

55. The Supervisor issued an order on 31 January completing the process of harmonizing District legislation with the amended Statute. This entailed the enactment of a final set of 31 amendments on top of the nearly 70 laws and amendments he passed in June 2007.

56. One of the most important achievements of the District during the period was the Assembly's adoption on 27 March of the Law on Primary and Secondary Education. Brcko District has had the only truly multi-ethnic education system in Bosnia and Herzegovina since the Supervisor enacted the first education law in 2001, so fulfilling a requirement of the Final Award. After seven years in force, the law required modernization and harmonization in line with the European Partnership Programme, which will necessitate the rationalization of the school network by 2009 and higher standards of education for teachers by 2015. The development and adoption of the new law was difficult and time-consuming, but the fact that a wide array of governing and opposition parties voted for it testifies to the acceptance of an integrated educational system in the District that is often and rightly held up as a model for the rest of Bosnia and Herzegovina.

57. Brcko registered several other legislative achievements in the period, including the introduction of the first modern real-estate tax law in Bosnia and Herzegovina. A new concept for land ownership has been developed for consideration, while a new Law on Police Officials that supports systematic police reform throughout Bosnia and Herzegovina was adopted without difficulty. Filling a potentially dangerous legal gap, the Supervisor also provided for regulation of the insurance industry in the District and resolved a simmering problem of land conveyance for displaced persons in the Ilicka settlement.

58. On 15 February the Supervisor dismissed two policemen from positions in the Brcko District Police. The Supervisor acted after receiving multiple and substantiated reports of the two officers' official misconduct, serious breaches of duty, unprofessional behaviour, inadequate performance, and other actions that seriously undermined the effectiveness of the service. He was compelled to intervene when it became clear that the dismissals ordered by the police disciplinary boards could not be implemented soon enough to spare the District Police further harm.

59. In line with the objective set for Brcko by the Peace Implementation Council Steering Board, the Supervisor commenced exploratory discussions with political leaders about additions to the Bosnia and Herzegovina Constitution and a State law that would regulate relations among the District, State and entities in accordance with the Awards of the Arbitral Tribunal. At the time of writing, the discussions are ongoing, but remain subject to the broader political situation in Bosnia and Herzegovina.

XIV. Bosnia and Herzegovina and the region

60. Bosnia and Herzegovina is uniquely vulnerable to political instability in the region. Not only do the domestic politics of Croatia, Montenegro and Serbia occasionally impact upon it, but Serbs, Croats and Bosniaks in Bosnia and Herzegovina all frequently identify with the aims and achievements, struggles and defeats, of their co-nationals across its borders.

61. The issue of Kosovo's future status continued to feature prominently in the country's political discourse during the period. The failure of the Troika process in December and the countdown to a unilateral declaration of independence in February led to a ratcheting up of rhetoric and concern on the part of Bosnia and Herzegovina Serbs, who share the general Serb identification of Kosovo with their faith, culture and nationhood, albeit to a lesser degree than in Serbia proper. The Prime Minister of Republika Srpska, Milorad Dodik, took part in many manifestations of Serb solidarity over Kosovo, but also usually argued that Kosovo's fate should not and need not have implications for — or produce disturbances in — Bosnia and Herzegovina. Although, as reported above, both his party and parliament ultimately sought to play the card of the alleged Kosovo "precedent", he maintained public order and did not support the more extreme manifestations of Serb anger over Kosovo's eventual declaration of independence and its recognition by many countries. Public demonstrations against Kosovo's independence in the Republika Srpska were relatively small in scale and the entity's police contained the violent impulses of young hooligans relatively easily, although minor damage was inflicted on some diplomatic offices in Banja Luka.

62. What did afflict non-Serbs in Bosnia and Herzegovina were the efforts of the European Union to placate Serbia for its impending "loss" of Kosovo by offers of a Stabilization and Association Agreement and/or a political treaty in the run-up to both the Serbian presidential elections in January and Kosovo's declaration of independence in February. Accusations of double standards on the part of Brussels were frequent, especially in view of the difficulties Bosnia and Herzegovina was experiencing in its own efforts to fulfil the European Union terms in regard to police reform.

63. The niggling border-definition issues with Croatia and Serbia remain unresolved, as does the problem of Croatia's plan to build a bridge, bypassing the small slice of Adriatic coastline of Bosnia and Herzegovina, between the mainland and the Peljesac peninsula. The risk in this case is that the access of Bosnia and Herzegovina to the open sea might be impaired. Inadequacies in judicial cooperation among Serbia, Croatia, Montenegro and Bosnia and Herzegovina, particularly over war crimes prosecutions, also remain. As noted above, however, the main complaint of Bosnia and Herzegovina is that Serbia has done nothing to implement the verdict of February 2007 of the International Court of Justice in regard to indicted war criminals.

XV. European Union police mission

64. On the invitation of the Presidency of Bosnia and Herzegovina, the European Council decided on 19 November 2007 to extend the mandate of the European Union police mission for another two years. It will now run until 31 December 2009. The mandate stays roughly unchanged, as does the mission's size. Having worked closely with the mission, I strongly supported its extension. Although the chain of command in the mission had been previously amended to reflect the establishment of a new civilian planning and conduct capability at the Brussels level (Council Secretariat General), I continue to provide political guidance to the mission.

65. As foreseen in its reconfirmed mandate, the strategic priorities of the mission remain the fight against organized crime and corruption, the attainment of police reform, and the improvement of police accountability. As for the first of these, the mission took the lead in coordinating the policing aspects of international efforts and ensured, in particular, closely targeted European Union attention to major crime cases across Bosnia and Herzegovina through the European Union Coordination Board. Through its Criminal Justice Unit and in close coordination with my office, the mission promoted better relations between police and prosecutors and hosted the third National Police and Prosecutors Conference.

66. The mission also monitored police accountability and supported the development of best practices. For example, protest demonstrations in Republika Srpska in February against Kosovo's declaration of independence provided the mission with an opportunity to evaluate police handling of highly sensitive public events (in this case, positively). The mission likewise supported the strengthening of State-level law enforcement agencies (the Border Police and the State Investigation and Protection Agency, particularly through co-location. The mission continued to support efforts to broker a political agreement on police reform and later participated, together with colleagues in the Office of the High Representative, as an

observer on the working group tasked with drafting the new policing laws. On the basis of the common operational guidelines, it continued its close cooperation with EUFOR.

XVI. Non-certification of police officers

67. Following the letter of April 2007 from the President of the Security Council to the Permanent Representative of Bosnia and Herzegovina to the United Nations on former police officers denied certification by the International Police Task Force, the Office of the High Representative/European Union Special Representative and the European Union police mission drafted model amendments to assist all jurisdictions in bringing their legislation into compliance with the terms of the President's letter.

68. As of March 2008, 8 of the 10 Federation cantons and Brcko District had amended their legislation to comply with the conditions set by the President of the Security Council. The Bosnia and Herzegovina Council of Ministers and the Federation Government had both adopted the necessary amendments and forwarded them to their respective parliaments. Neither Cantons 1 and 10, nor Republika Srpska, had yet begun to adopt legislation.

XVII. Media development

69. Although Bosnia and Herzegovina ranks fairly high on league tables of media freedom, there was much discussion during the reporting period about alleged "blacklists" of persons critical of the Republika Srpska Government who should not be allowed to air their views on radio and television or to write for the press. In the Federation, meanwhile, concern centred on the extreme partisanship and intermittent irresponsibility of some newspapers and television news programmes. Both complaints reflect the fact that the media landscape is as fragmented as are the national and political scenes. Bosniaks, Croats and Serbs tend to watch, listen to and read their "own" media to the exclusion of the others. The State-level public broadcaster, BHRT, has had difficulties acquiring an audience, particularly in the Republika Srpska. Croats feel particularly disadvantaged by what they regard as Bosniak domination of the Federation's public broadcaster and Serb control of its Republika Srpska equivalent. They argue that they, too, must have a State-wide public television service that would broadcast exclusively in the Croatian language.

70. This explains the failure to complete public broadcasting reform, the enactment of the requisite legislation in the Federation being the missing element. Croat parliamentarians have twice invoked "vital national interest" to stop enactment of the law as adopted by the Federation Parliament. Their most recent objections have now been sent to the Federation Constitutional Court for adjudication.

71. Ensuring the independence of the Communications Regulatory Agency is another European partnership requirement. Unfortunately, the appointment of a new director has become enmeshed in the larger ethno-political game. Although the Council of the Communications Regulatory Agency has repeatedly sought to reappoint the current (Bosniak) director to another term, the Council of Ministers has refused to do so, demanding a rerun of the appointment process. This refusal

stems from an agreement, struck by the leaders of the six coalition parties in December, that the directorship of the Communications Regulatory Agency should go to a Croat.

XVIII. European Union Special Representative

72. In line with my mandate as European Union Special Representative in Bosnia and Herzegovina (Council Joint Action 2007/427/CFSP), I continued to promote the priorities listed in the European partnership document of 2006, as well as the implementation of the Dayton Accords. In my capacity as European Union Special Representative, I have also continued to coordinate and ensure the coherence of the European Union presence in Bosnia and Herzegovina, in particular with regard to the European Union police mission and EUFOR.

73. In line with the European Union enlargement strategy 2007-2008, calling for better communication by the European Union, I have recently launched a European Union integration campaign in coordination with the delegation of the European Commission and missions on the ground under the European Security and Defence Policy. The objective is to create a critical mass of citizens in the country that would be empowered to speak out in favour of European Union integration and gradually exert ever-greater pressure on the domestic political establishments to deliver on their commitments to integration. I have opened a dialogue with the public by attending the debates that continue to take place across the country. In addition, I have recently set up an interactive web page (www.reci.ba) through which I reply to citizens' questions and facilitate public debate on European Union integration. The site received some 18,000 visits and 1,300 comments from citizens in its first month.

XIX. Future of the Office of the High Representative

74. As has been reported above, the meeting held on 26 and 27 February of the Steering Board of the Peace Implementation Council determined that the Office of the High Representative should remain in place and continue to carry out its mandate under the Dayton Peace Agreement until such time as the domestic authorities fulfil five specific objectives and two general conditions prevail (see annex). This shift to an objective-driven road map towards the closure of the Office should accelerate the reform process, inculcate domestic ownership, and diminish uncertainly about the future. The Office of the High Representative can and will close as soon as these benchmarks and conditions are met.

XX. Reporting schedule

75. In keeping with my predecessors' proposals to submit regular reports for onward transmission to the Security Council, as required by resolution 1031 (1995), I herewith present my first regular report. Should the Secretary-General or any Security Council member require information at any other time, I should be pleased to provide an additional written update.

Annex

Declaration of the Steering Board of the Peace Implementation Council, 27 February 2008

The Political Directors of the Steering Board of the Peace Implementation Council met in Brussels on 26 and 27 February 2008. The Presidency of Bosnia and Herzegovina, the Chairman of the Council of Ministers as well as leaders of the governing coalition were present during parts of the meeting.

The Steering Board noted that, since October, Bosnia and Herzegovina has made progress with regard to the Stabilization and Association Agreement. The Steering Board welcomes the initialling of the Stabilization and Association Agreement that took place on 4 December 2007. The signing of the Stabilization and Association Agreement is finally in reach as soon as the necessary conditions are met.

However, important underlying problems, which gave rise to recent crises, remain in Bosnia and Herzegovina. There have been attempts to weaken progressively the institutions and legitimacy of the State. There have been renewed tensions between political actors over the future constitutional make-up of the country as well as the role and competencies of the State. The limited degree of cooperation among Bosnia and Herzegovina actors shown late in 2007 has deteriorated. There have also been unacceptable challenges to the Dayton Peace Agreement.

The Steering Board expresses deep concern with regard to official calls for secession. It strongly emphasizes that under the Dayton Peace Agreement an entity has no right to secede from Bosnia and Herzegovina.

As previously stated, the Steering Board is also concerned by statements calling the existence of entities into question.

The Steering Board underlines once again that Bosnia and Herzegovina is a recognized sovereign State whose territorial integrity is guaranteed by the Dayton Peace Agreement. The Steering Board recalls that the Constitution of Bosnia and Herzegovina recognizes that Bosnia and Herzegovina consists of two entities and that Bosniaks, Croats and Serbs are constituent peoples. The Steering Board remains fully committed to the Dayton Peace Agreement.

The Steering Board reiterates that Bosnia and Herzegovina politicians must end the practice of threatening unilateral changes to the constitutional structure of the country. All parties must comply fully with the Dayton Peace Agreement. The Steering Board underlines that the international community retains the necessary instruments to counter destructive tendencies and that it will not allow attempts to undermine the Dayton Peace Agreement, whether from inside or outside the country. All signatories and parties are obliged under annex 10 of the Dayton Peace Agreement to cooperate fully with the High Representative and his staff. Decisions of the High Representative must be fully respected and promptly implemented.

With regard to police reform, the Steering Board encouraged Bosnia and Herzegovina actors to take forward the debate in the Parliamentary Assembly and to adopt police reform legislation in line with the Mostar Declaration and the

subsequent Action Plan and consistent with European Union requirements as a matter of urgency.

The Steering Board encourages the Bosnia and Herzegovina Council of Ministers to continue to move forward on the reform agenda with determination, and to adopt an action plan as a response to the European partnership.

The Steering Board welcomes the adoption of the platform for action and the progress made towards realizing some of its objectives, including fiscal coordination. However, much more needs to be done.

The Steering Board notes that political party leaders have had initial discussions on constitutional reform and that this issue is also reflected in the Mostar Declaration and the action plan. The Steering Board reaffirmed its view that constitutional reform will be necessary in order to equip Bosnia and Herzegovina to meet the requirements of a modern European State.

The Steering Board underlines the importance of freedom of expression, including free and independent media, and notes that the Dayton Peace Agreement obliges Bosnia and Herzegovina, including both entities, to ensure the highest level of internationally recognized human rights and fundamental freedoms. In this regard the Steering Board welcomes the visit of the OSCE representative for freedom of the media to Bosnia and Herzegovina.

In line with the decision taken at its meeting of October 2007, the Steering Board reviewed the situation. It endorsed the following recommendations of the High Representative regarding the future of the Office of the High Representative.

Having assessed developments in Bosnia and Herzegovina over the past months, the Steering Board reiterated that transition and ownership remain the goals. It is for Bosnia and Herzegovina actors, in the first place, to create the conditions for transition to occur, which should happen in the shortest possible time. The Steering Board and the broader international community stand ready to support Bosnia and Herzegovina actors in creating the necessary conditions.

Bosnia and Herzegovina as a "peaceful, viable State irreversibly on course for European integration" has been the long-standing objective of the Steering Board and achieving this objective has been the focus of the work of the Office of the High Representative.

The workplan of the Office of the High Representative approved by the Steering Board in April 2007 contains a number of long-standing objectives that the Steering Board considers to be essential for the creation of such a peaceful, viable State. For this reason, the Steering Board has decided that the most critical issues contained in the workplan should be considered objectives that need to be achieved by the Bosnia and Herzegovina authorities prior to transition. These objectives are well established, have been approved by the Steering Board, and have all been previously recognized by Bosnia and Herzegovina authorities as obligations.

The objectives that will need to be delivered by the Bosnia and Herzegovina authorities prior to transition are:

- Acceptable and sustainable resolution of the issue of apportionment of property between State and other levels of government
- Acceptable and sustainable resolution of defence property

- Completion of the Brcko Final Award
- Fiscal sustainability promoted through an agreement on a permanent coefficient methodology for the Indirect Taxation Authority and establishment of a National Fiscal Council
- Entrenchment of the rule of law (demonstrated through the adoption of a national war crimes strategy, adoption of the law on aliens and asylum, and adoption of a national justice sector reform strategy).

In addition to the objectives listed above, the Steering Board agrees that two conditions need to be fulfilled prior to transition: signing of the Stabilization and Association Agreement and a positive assessment of the situation in Bosnia and Herzegovina by the Steering Board based on full compliance with the Dayton Peace Agreement.

The signing of the Stabilization and Association Agreement is not part of the Office's workplan. However, it is an important requirement for transition and necessary to demonstrate Bosnia and Herzegovina's progress towards membership of the European Union.

The situation in Bosnia and Herzegovina has previously been defined by the Steering Board as a criterion for decision-making on the closure and transition of the Office of the High Representative. It remains crucial that Bosnia and Herzegovina political leaders fully comply with the Dayton Peace Agreement avoiding any rhetoric or action that would threaten or violate the Peace Agreement.

The achievement of the above-mentioned objectives and fulfilment of the conditions will facilitate transition. The Steering Board urges the authorities in Bosnia and Herzegovina to achieve these objectives and contribute to fulfilling these conditions as soon as possible. The High Representative stands ready to advise and work with Bosnia and Herzegovina institutions in this regard.

The Steering Board underscores its full support for the High Representative to facilitate accomplishment of these objectives in a manner consistent with the overall goal of entrenching reform and ensuring that Bosnia and Herzegovina meets its commitments for Euro-Atlantic integration. The Steering Board requests the High Representative to take all appropriate measures to ensure that the objectives are met.

The Office of the High Representative will remain in place and continue to carry out its mandate under the Dayton Peace Agreement, ensuring full respect of the Peace Agreement.

The Steering Board reiterated the view that a reinforced office of a European Union Special Representative would constitute an important part of the European Union comprehensive engagement after the Office of the High Representative. The Steering Board looked forward to a renewed exchange of information on the respective planning processes.

The Steering Board calls upon Serbia, a Dayton signatory, as well as the authorities in Bosnia and Herzegovina, especially those in Republika Srpska, to abide by their obligations under international law to cooperate fully with the International Tribunal for the Former Yugoslavia, playing a proactive role in apprehending all remaining indictees, including Radovan Karadzic and Ratko

Mladic, without further delay, dismantling the networks offering support to such fugitives, and ensuring they are transferred to the Tribunal.

The Steering Board reminded all authorities in Bosnia and Herzegovina of the fundamental principle of the inviolability of diplomatic missions and their obligations in that regard. The Steering Board deplores the damage inflicted upon diplomatic offices in Banja Luka. It expects the authorities in Bosnia and Herzegovina, in particular the Republika Srpska, to live up fully to their obligations and to maintain public order.

The Office of the High Representative will monitor progress against objectives and conditions and the Steering Board will keep the situation under constant review. The next meeting of Political Directors will be held in Sarajevo on 24 and 25 June 2008.